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December 4, 2012

VIA ELECTRONIC FILING

The Honorable Roanne L. Mann
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Akman v. Pep Boys Manny, Moe & Jack of Delaware, Inc.*
d/b/a Pep Boys Auto; Civil Action No. 11-03252-MKB-RLM

Dear Judge Mann:

As you know, we represent Defendant Pep Boys Manny, Moe & Jack of Delaware, Inc. (“Pep Boys”) in the above-referenced matter. Despite violating multiple court orders over the past year, and being continually admonished and sanctioned by the Court regarding the same, Plaintiff’s counsel has astonishingly violated this Court’s Order yet again.

Specifically, on November 27, 2012, this Court issued its Order denying Pep Boys’ renewed motion to dismiss but ordering Plaintiff’s counsel to deliver a certified check to Pep Boys’ counsel by November 30, 2012. (See Dkt. No. 36.) This Court had ordered that this sanctions amount be paid to Pep Boys over five months ago, but Plaintiff’s counsel had bounced his check. Notably, in Plaintiff’s opposition to Pep Boys’ renewed motion to dismiss, which was filed several days late on November 8, Plaintiff’s counsel represented to the Court that: “this obligation remains my responsibility and will be addressed within the next few weeks. The court can fashion a remedy requiring payment by a particular date....” (See Dkt. No. 33.) As of today, Pep Boys’ counsel still has not received any payment, nor have we received any communication from Plaintiff’s counsel about the same. This is a clear and indisputable violation of the Court’s Order.

Accordingly, Pep Boys hereby respectfully requests that the Court impose additional sanctions on Plaintiff or Plaintiff’s counsel for the costs and attorneys’ fees associated with Pep Boys’ repeated attempts to enforce the Court’s June 2012 sanctions order. If granted, Pep Boys will

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detail for Plaintiff the additional expenses it has incurred. Pep Boys also respectfully requests that the Court grant any other relief it deems reasonable under the circumstances.¹

Thank you for your consideration of this request.

Respectfully Submitted,

/s/ Sean W. Sloan
Sean W. Sloan

c: Joel M. Gluck, Esquire
Michael L. Banks, Esquire

¹ Pep Boys has already filed two motions to dismiss based on Plaintiff's and Plaintiff's counsel's blatant disregard for discovery obligations and repeated violations of multiple court orders. The Court would have been well within its discretion to dismiss Plaintiff's case based on even fewer violations, and it appears that the Court's multiple threats and prior sanctions have not deterred Plaintiff's continued abuse of the litigation process.